

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE TITLE 13 (TRANSPORTATION SERVICES) RELATING TO CHAUFFEUR'S PERMITS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Subsections (B) and (C) of City Code Section 13-2-102 (*Contents of an Application*) is amended to read:

- (B) The applicant must attach to the application a copy of the applicant's complete ~~[criminal history and]~~ driving record[,] and nationwide criminal history issued and certified by the Texas Department of Public Safety or other relevant governmental entity as determined by the department. The criminal history and driving record must be issued and certified not earlier than the 30th day before the date the applicant submits an application for a chauffeur's permit.
- (i) Consistent with the requirements of Texas Government Code Sections 411.122 and 411.087, which authorize the City to obtain criminal history record information maintained or indexed by the Federal Bureau of Investigation (FBI) through the Texas Department of Public Safety (DPS).
- (ii) Each individual whose application for a license, permit or authorization or any renewal thereof is subject to subsection (a) shall be required to provide a complete set of fingerprints and other identifying information to the official designated by the permitting, licensing or authorizing department, along with any applicable fee and any release or waiver forms required in order for the official to conduct a national background check through the FBI.
- (iii) Upon receipt of the fingerprints and any applicable fee, the City, or City approved third-party, is authorized to submit the fingerprints to the DPS for a search of the State's criminal history record, and the DPS is authorized to forward a set of the fingerprints to the FBI for a national criminal history check. The results of the FBI check will be returned to the DPS, which will disseminate the results of state and national criminal history checks to the City.

(iv) The criminal history record information obtained through the FBI will be used by the Austin Transportation Department to determine whether an individual is prohibited from obtaining a chauffeur's permit.

- (C) An applicant who has been a resident of Texas for less than three years preceding the date the application is submitted must also submit a [~~criminal history and~~] driving record certified by the appropriate governmental authority in the former state of residence. The [~~criminal history and~~] driving record from the appropriate governmental authority in the former state of residence must be issued and certified not earlier than the 30th day before the date the applicant submits an application for a chauffeur's permit.

PART 2. City Code Section 13-2-102 (*Contents of an Application*) is amended to delete Subsection (D) and renumber the remaining subsections accordingly.

PART 3. City Code Title 13 is amended to add a new Section 13-2-103 to read:

§ 13-2-103 DISQUALIFICATION FOR CERTAIN OFFENSES.

- (A) Applicants for a chauffeur's permit or for a renewal are disqualified if, within the past seven years before the date of the application, the applicant has been convicted under the laws of this state, or any other state, or of the United States of the offense or offenses of:

- (1) illegal possession or use of a controlled substance;
- (2) operating a vehicle while intoxicated;
- (3) pandering;
- (4) prostitution or soliciting for prostitution; or
- (5) a felony not listed in subsection (B) of this section.

- (B) Applicants for a chauffeur's permit or for a renewal are disqualified if at any time the applicant has been convicted under the laws of this state, or any other state, or of the United States of the offense or offenses of:

- (1) homicide;
- (2) sexual assault, simple rape, aggravated rape, or attempted aggravated rape;
- (3) armed robbery or attempted aggravated robbery;
- (4) aggravated burglary;

- (5) aggravated assault;
- (6) aggravated battery or attempted aggravated battery;
- (7) aggravated kidnapping;
- (8) sale, distribution, or possession with intent to distribute a controlled substance;
- (9) fraud;
- (10) use of a motor vehicle to commit a felony;
- (11) gun related violations;
- (12) resisting or evading arrest;
- (13) reckless driving;
- (14) any crime involving property damage;
- (15) theft;
- (16) acts of violence;
- (17) acts of terror; or
- (18) multiple felony offenses.

(C) If an applicant for a new chauffeur's permit or for a renewal of a chauffeur's permit has been charged with any offense listed in subsections (A) or (B) of this section, the Director shall suspend consideration of the application until final disposition of the matter. If the applicant is convicted of the offense, the Director shall revoke or deny the chauffeur's permit.

(D) If the holder of a chauffeur's permit is charged with any of the offenses listed in subsection (A) or (B) of this section, the charge shall be grounds for immediate interim suspension of the existing chauffeur's permit until final disposition of the charge. If convicted of the offense, the Director shall revoke the chauffeur's permit.

(E) A holder of a chauffeur's permit, or an applicant for a new or renewed chauffeur's permit must notify the Director in writing of any arrest, charge, or conviction of a crime not later than 15 days after the arrest, charge, or conviction. If incarceration prevents notification within 15 days, the holder or applicant shall notify the Director immediately upon release. No later than 15 days after disposition or sentencing, the holder

1 or applicant shall deliver to the Director a certified copy of any order,
2 judgment, or certificate of disposition issued by the clerk of the court.

3 **PART 4.** Subsection (D) of City Code Section 13-2-106 (*Approval and Denial of*
4 *Applications*) is amended to read:

5 (D) The department may deny the application of a person convicted of an
6 offense set forth in Section 13-2-103 (*Disqualification for Certain*
7 *Offenses*) or another [a] criminal offense if the department determines that
8 the conviction is directly related to the ability, capacity, or fitness required
9 to perform the duties and discharge the responsibilities of a driver of a
10 ground transportation service vehicle. In making a determination, the
11 department shall use the criteria established in Texas Occupations Code
12 Sections 53.022 (*Factors in Determining Whether Conviction Relates to*
13 *Occupation*) and 53.023 (*Additional Factors for Licensing Authority to*
14 *Consider*).

15 **PART 5.** Subsection (D) of City Code Section 13-2-527 (*Driver Eligibility—Criminal*
16 *Background and Diver History Checks*) is amended to read:

17 (D) To meet the requirements of this section, a criminal background check
18 must be national in scope and comply with the requirements in Subsection
19 (E) of this section. If the criminal background check indicates that the
20 potential driver has been convicted within the past seven years of an
21 offense listed in Section 13-2-103 (*Disqualification for Certain Offenses*)
22 Subsection (A), or that the applicant has been convicted at any time of an
23 offense listed in Section 13-2-103 (*Disqualification for Certain Offenses*)
24 Subsection (B), then the person [a person has been convicted of certain
25 offenses, to be specified by separate ordinance, that person] is prohibited
26 from driving for a TNC. If a TNC driver is charged with any of the
27 offenses listed in Section 13-2-103 (*Disqualification for Certain Offenses*)
28 Subsections (A) and (B), the driver shall be prohibited from driving for a
29 TNC until final disposition of the charge. If the driver is convicted of the
30 offense, that driver will be disqualified from driving for a TNC.

1 **PART 6.** This ordinance take effect on _____, 2016.

2
3 **PASSED AND APPROVED**

4
5
6
7 _____, 2016

§
§
§

8 _____
9 Steve Adler
Mayor

10
11
12 **APPROVED:** _____

13 Anne L. Morgan
14 City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk